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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,701	12/20/2007	Birger Hansson	05822.0339USWO	6533
23552 7590 09/29/2010 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER				
FRISTOE JR, JOHN K				
ART UNIT		PAPER NUMBER		
3753				
MAIL DATE		DELIVERY MODE		
09/29/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,701

Applicant(s)

HANSSON, BIRGER

Examiner

JOHN K. FRISTOE JR

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) 7 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/GS-08)
Paper No(s)/Mail Date 7/11/06, 7/19/10
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-6) in the reply filed on 9/15/2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 7 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/15/2010.

Information Disclosure Statement

3. The information disclosure statements filed 7/11/2006 and 7/19/2010 is acknowledged by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2003/0015155 (as evidenced by U.S. Pat. No. 6,739,293 (Turner et al.)). Turner et al. disclose an electronically controlled valve comprising sensing means (58) for providing an output signal (the sensor inherently makes some sort of signal) when the valve (30) is open (the position sensor shows all positions of the valve), wherein the sensing means (58) is a Hall-effect sensor

(col. 8, lines 21), and adaptive control means (33) is provided for controlling opening of the valve (30) in response to the output signals from the sensing means (58).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0015155 (as evidenced by U.S. Pat. No. 6,739,293 (Turner et al.)) in view of U.S. Pat. No. 5,605,317 (Mealy et al.). Turner et al. disclose an electronically controlled valve comprising sensing means (58) for providing an output signal (the sensor inherently makes some sort of signal) when the valve (30) is open (the position sensor shows all positions of the valve), wherein the sensing means (58) is a Hall-effect sensor (col. 8, lines 21), and adaptive control means (33) is provided for controlling opening of the valve (30) in response to the output signals from the sensing means (58) but lacks the sensing means being an optical sensing means. Mealy et al. teach a valve assembly comprising an optical sensing means (142). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electrically controlled valve of Turner et al. by making the sensing means an optical sensor as taught by Mealy et al. since using a known sensing means will yield a predictable result.

8. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,739,293 (Turner et al.) in view of U.S. Pat. No. 3,780,723 (Van Patten et al.). Turner et al. disclose an electronically controlled valve comprising sensing means (58) for providing an

output signal (the sensor inherently makes some sort of signal) when the valve (30) is open (the position sensor shows all positions of the valve), wherein the sensing means (58) is a Hall-effect sensor (col. 8, lines 21), and adaptive control means (33) is provided for controlling opening of the valve (30) in response to the output signals from the sensing means (58) but lacks the sensing means being an accelerometer. Van Patten et al. teach a valve assembly comprising an accelerometer (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electrically controlled valve of Turner et al. by making the sensing means an accelerometer as taught by Van Patten et al. since using a known sensing means will yield a predictable result.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,739,293 (Turner et al.) in view of U.S. Pat. No. 4,494,568 (Young). Turner et al. disclose an electronically controlled valve comprising sensing means (58) for providing an output signal (the sensor inherently makes some sort of signal) when the valve (30) is open (the position sensor shows all positions of the valve), wherein the sensing means (58) is a Hall-effect sensor (col. 8, lines 21), and adaptive control means (33) is provided for controlling opening of the valve (30) in response to the output signals from the sensing means (58) but lacks the sensing means being a pressure sensor. Young teach a valve assembly comprising a pressure sensor (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electrically controlled valve of Turner et al. by making the sensing means an optical sensor as taught by Young since using a known sensing means will yield a predictable result.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 3,731,903 (Webb et al.) disclose a valve assembly.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7:00 a.m.-4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen M. Hepperle can be reached on (571) 272-4913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./
John K. Fristoe Jr.
Primary Examiner
Art Unit 3753

JKF